

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

Angel Laychock

Plaintiff

v.

Wells Fargo Home Mortgage

Defendant

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CIVIL ACTION NO.: 07-04478

: JURY OF TWELVE (12) JURORS DEMANDED

**ORDER**

AND NOW this \_\_\_\_\_ day of \_\_\_\_\_, 2008, upon consideration of Plaintiff's Motion for Relief pursuant to FRCP 60(b)(5) & (6), et al., and any response thereto, it is hereby ORDERED and DECREED that Plaintiff's Motion is granted, and the Order dated July 23, 2008 (entered July 28, 2008) (Docket Number 25) is hereby Vacated.

Upon consideration of Plaintiff's Motion for Leave to File an Amended Complaint, and any response thereto, it is hereby ORDERED and DECREED that Plaintiff's Motion is Granted, and Plaintiff shall file her Amended Complaint within twenty (20) days from the date of entry of this Order.

**AND IT IS SO ORDERED.**

\_\_\_\_\_  
**Juan R. Sanchez, J.**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

Angel Laychock

Plaintiff

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**ALTERNATE ORDER**

AND NOW this \_\_\_\_\_ day of \_\_\_\_\_, 2008, upon consideration of Plaintiff's Motion for Enlargement of Time to File a Motion for Reconsideration, et al., and any response thereto, it is hereby ORDERED and DECREED that Plaintiff's Motion is Granted, and Plaintiff shall have twenty (20) days from the date of entry of the Orders adjudicating Plaintiff's Motions for Leave to File an Amended Complaint and for Relief from Judgment Pursuant to F.R.C.P. 60 to file her Motion for Reconsideration of the Order upon Defendants' Motions to Dismiss, if necessary.

**AND IT IS SO ORDERED.**

\_\_\_\_\_  
**Juan R. Sanchez, J.**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

Angel Laychock

Plaintiff

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**PLAINTIFF'S MOTION FOR RELIEF FROM ORDER DATED JULY 23, 2008**  
**(ENTERED JULY 28, 2008) PURSUANT TO FRCP 60(b)(5) & (6), OR IN THE**  
**ALTERNATIVE, MOTION FOR ENLARGEMENT OF TIME TO FILE A MOTION**  
**FOR RECONSIDERATION OF THE ORDER**

1. Dated July 23, 2008, on July 28, 2008 (Docket Number 25), this Honorable Court entered its Order ("Order") upon Defendants' Motions to Dismiss granting those motions and dismissing Plaintiff's Complaint.
2. Except as to TILA, RESPA and HOETA statutory damages (subject to Plaintiff's Motion for Leave to Amend, under separate cover), the Order disposes of Plaintiff's Complaint holding the action under Rooker-Feldman and *res judicata* impermissibly requiring this Court revisit the state Court's default judgment.
3. Dated July 31, 2008, the state Court judgment upon which the Order is dispositive was vacated. (Exh. A).
4. Pursuant to a F.R.C.P. 60(b)(5) & (6), Plaintiff should be granted leave from this Court's Order of Dismissal as "it is based on an earlier judgment that has been ... vacated; or applying it prospectively is no longer equitable; or any other reason that justifies relief."
5. Pursuant to F.R.C.P. 60(c)(1), this Motion was brought timely.

6. Underlying the State Court's judgment's *vacatur*, Plaintiff (there Defendant) reinstated the claimed mortgage delinquency at her great detriment (though this action largely claims that delinquency wholly unfounded) so to preserve her rights herein and prevent Sheriff's Sale. Said another way, Plaintiff paid her delinquency so to recoup that payment, in part, herein, so important that she should not lose both this action here via an unlawfully obtain judgment there (which has now been vacated) and her home.

7. If this Honorable Court holds F.R.C.P. 60 does not grant Plaintiff relief from its Order of Judgment by virtue of the State Court's judgment's *vacatur*, Plaintiff requests, alternatively, an enlargement of time thereafter the adjudication of this Motion (and pending Motion for Leave to Amend to file a Motion for Reconsideration of this Court's Order of Judgment) to file a Motion for Reconsideration therein intending to discuss this Court's, respectfully, error of law in its application of the above doctrines including additionally discussing the impropriety of entering final judgment while contemporaneously holding want of jurisdiction or the state Court's foreclosure and law being inextricably intertwined.

8. Should this court require instant elaboration, Plaintiff requests leave to file her memorandum of law. This motion is intended promptly filed so to alert the Court of this dispositive change.

WHEREFORE, Plaintiff requests this Honorable Court for relief from its Order of dismissal pursuant to FRCP 60(b)(5) & (6). In the alternative, Plaintiff requests an enlargement of time following the adjudication of this Motion and contemporaneous Motion for Leave to Amend so to file her Motion for Reconsideration of this Honorable Court's otherwise Order of dismissal.

PROCHNIAK WEISBERG, P.C.

/s/ Matthew B. Weisberg, Esquire  
MATTHEW B. WEISBERG, ESQUIRE  
Attorney for Plaintiff

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**CERTIFICATE OF SERVICE**

I, Matthew B. Weisberg, hereby certify that on this 19<sup>th</sup> day of August, 2008, a true and correct copy of Plaintiff's Motion for Relief from Order Dated July 23, 2008 (Entered July 28, 2008) Pursuant to FRCP 60(b)(5)&(6), or in the Alternative, Motion for Enlargement of Time to File a Motion for Reconsideration of the Order, was served via ECF, upon the following parties:

Reed Smith, L.L.P.  
Henry F. Reichner, Esq.  
2500 One Liberty Place  
Philadelphia, PA 19103

PROCHNIAK WEISBERG, P.C.

/s/ Matthew B. Weisberg, Esquire  
MATTHEW B. WEISBERG, ESQUIRE  
Attorney for Plaintiff

# **EXHIBIT A**

**PHELAN HALLINAN & SCHMIEG, LLP**

By: Francis S. Hallinan, Esquire, ID No. 62695

One Penn Center at Suburban Station

1617 JFK Boulevard, Suite 1400

Philadelphia, PA 19103-1814

(215) 563-7000

Attorney for Plaintiff

Wachovia Bank, National Association, as Trustee :  
for WFASC Mortgage Asset-Backed Pass-Through :  
Certificates, Series 2005-2 :  
3476 Stateview Boulevard :  
Fort Mill, SC 29715 :

Court of Common Pleas

Civil Division

Plaintiff

July Term 2007

vs.

Angel J. Laychock :  
1240 Englewood Street :  
Philadelphia, PA 19111 :

No. 02143

Defendant

Philadelphia County

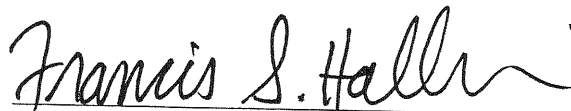
**PRAECIPE**

TO THE PROTHONOTARY:

Please vacate the judgment entered and mark the above-referenced case discontinued and ended without prejudice.

Date:

7/31/08



Francis S. Hallinan, Esquire  
Attorney for Plaintiff



**PHELAN HALLINAN & SCHMIEG, LLP**

By: Francis S. Hallinan, Esquire, ID No. 62695  
One Penn Center at Suburban Station  
1617 JFK Boulevard, Suite 1400  
Philadelphia, PA 19103-1814  
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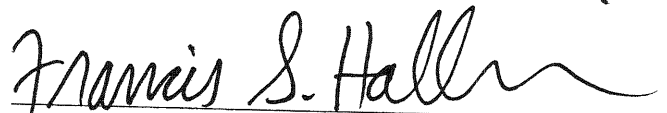
**CERTIFICATION OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Praecipe to vacate the judgment entered and mark the action discontinued and ended without prejudice was sent by regular mail to the following on the date indicated below:

Matthew Weisberg, Esquire  
Prochniak Weisberg, PC  
7 South Morton Avenue  
Morton, PA 19070

Date

7/31/08



Francis S. Hallinan, Esquire  
Attorney for Plaintiff